

WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

JONATHAN SHOCKLEY,

Applicant,

vs.

No. ADJ12031731(OAK)

BIOTELEMETRY, INC. DBA

CARDIONET, LLC; CHUBB

INDEMNITY INSURANCE COMPANY,

Defendants.

DEPOSITION OF JONATHAN SHOCKLEY

Oakland, California

Thursday, October 10, 2019

Volume I

Reported by:

CLAUDIA A. BETTUCCHI

CSR No. 12214

JOB No. 3503088

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<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 For Applicant:</p> <p>4 FARBER & COMPANY ATTORNEYS, P.C.</p> <p>5 BY: ZACHARY M.KWELLER</p> <p>6 Attorney at Law</p> <p>7 333 Hegenberger Road, Suite 504</p> <p>8 Oakland, California 94621</p> <p>9 510.444.2512</p> <p>10 zachary.kweller@farberandco.com</p> <p>11</p> <p>12 For Defendants:</p> <p>13 COLANTONI, COLLINS, MARREN, PHILLIPS & TULK, LLP</p> <p>14 BY: JAMES J. GOINES</p> <p>15 Attorney at Law</p> <p>16 201 Spear Street, Suite 1100</p> <p>17 San Francisco, California 94105</p> <p>18 855.396.1220</p> <p>19 jgoins@ccmpt.com</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 Oakland, California, Thursday, October 10, 2019</p> <p>2 10:14 a.m.</p> <p>3</p> <p>4 JONATHAN SHOCKLEY</p> <p>5 having been administered an oath, was examined and</p> <p>6 testified as follows:</p> <p>7</p> <p>8 EXAMINATION</p> <p>9 BY MR. GOINES:</p> <p>10 Q Good morning, Mr. Shockley.</p> <p>11 A Good morning.</p> <p>12 Q How are you today?</p> <p>13 A I am good.</p> <p>14 Q Good. Well, thank you for being here. As you</p> <p>15 know, this is your deposition, and I represent the</p> <p>16 employer and the insurer in relation to your workers'</p> <p>17 compensation claim.</p> <p>18 So, to begin, have you ever had a deposition</p> <p>19 taken before?</p> <p>20 A No.</p> <p>21 Q No? I'm just going to go over some normal</p> <p>22 ground rules.</p> <p>23 So although we're at an informal setting,</p> <p>24 which is your attorney's office, your testimony is under</p> <p>25 oath, meaning it has the same effect as if you were in</p>

<p style="text-align: right;">Page 6</p> <p>1 court. Does that make sense?</p> <p>2 A Yes.</p> <p>3 Q Terrific.</p> <p>4 Throughout the depo I might ask for a date or</p> <p>5 a time or a measurement. I'm entitled to your best</p> <p>6 estimate, but I don't want a guess.</p> <p>7 Very brief example: If I ask you how big this</p> <p>8 desk is, you can estimate because it's in front of you.</p> <p>9 If I asked how big the desk in my office is, you'd have</p> <p>10 to guess because you've never seen it.</p> <p>11 A Right.</p> <p>12 Q So I'm entitled to your best estimate, but</p> <p>13 please do not guess. Does that make sense?</p> <p>14 A Yes.</p> <p>15 Q Terrific.</p> <p>16 If you don't understand a question, just ask</p> <p>17 me to rephrase and I can do that. If you need to take a</p> <p>18 break at any time, we can do that as well. Just let me</p> <p>19 know. Please avoid shrugging your shoulders. Just give</p> <p>20 me a verbal yes, no or I don't know.</p> <p>21 Does that make sense?</p> <p>22 A Yes.</p> <p>23 Q Perfect.</p> <p>24 You'll get a chance to look at your</p> <p>25 transcript, which is everything in typed-out form. You</p>	<p style="text-align: right;">Page 8</p> <p>1 A Yes.</p> <p>2 Q Terrific.</p> <p>3 Any questions before we start?</p> <p>4 A No.</p> <p>5 Q Good. If you have any, just let me know.</p> <p>6 Please state your full name for the record.</p> <p>7 A Jonathan David Shockley.</p> <p>8 Q Have you ever gone by any other names,</p> <p>9 Mr. Shockley?</p> <p>10 A No.</p> <p>11 Q And what's your date of birth?</p> <p>12 A September 27th, 1978.</p> <p>13 Q And did you drive to the deposition today?</p> <p>14 A No.</p> <p>15 Q Do you have any difficulties driving?</p> <p>16 A I don't know how to drive.</p> <p>17 Q Do you have a driver's license?</p> <p>18 A No.</p> <p>19 Q Okay. And your current address?</p> <p>20 A 1000 Sutter Street, Room 123.</p> <p>21 Q That's in San Francisco?</p> <p>22 A Yes.</p> <p>23 Q And apartment or a home?</p> <p>24 A Apartment.</p> <p>25 Q Do you have any --</p>
<p style="text-align: right;">Page 7</p> <p>1 can make any changes to that. However, if do you make</p> <p>2 any changes, I can bring that to the attention of a</p> <p>3 judge, if we proceeded to trial. Does that make sense?</p> <p>4 A Yes.</p> <p>5 Q Terrific.</p> <p>6 Roughly, how long did you prepare with your</p> <p>7 attorney today before the deposition?</p> <p>8 A What time is it?</p> <p>9 Q It's about 10:15 right now.</p> <p>10 A 40 minutes?</p> <p>11 MR. KWELLER: So you got here at about 9:15.</p> <p>12 THE WITNESS: Roughly, yeah.</p> <p>13 MR. KWELLER: And we started preparing</p> <p>14 immediately.</p> <p>15 THE WITNESS: Yes.</p> <p>16 MR. KWELLER: And we prepared until all the</p> <p>17 parties came into the deposition and commenced with</p> <p>18 deposition testimony.</p> <p>19 THE WITNESS: Yes.</p> <p>20 MR. GOINES: 60 minutes?</p> <p>21 MR. KWELLER: Yes.</p> <p>22 MR. GOINES: 60 minutes.</p> <p>23 Q Lastly, are you aware that it is a felony</p> <p>24 under the Insurance Code to make a misstatement in order</p> <p>25 to obtain workers' compensation benefits?</p>	<p style="text-align: right;">Page 9</p> <p>1 A Rather, room.</p> <p>2 Q A room within an apartment?</p> <p>3 A A hotel, residence.</p> <p>4 Q Understood.</p> <p>5 Do you have any stairs leading to your hotel</p> <p>6 room?</p> <p>7 A Yes.</p> <p>8 Q Any difficulty going up or down stairs?</p> <p>9 A No.</p> <p>10 Q Are you currently married?</p> <p>11 A No.</p> <p>12 Q Ever been married?</p> <p>13 A No.</p> <p>14 Q Any children?</p> <p>15 A No.</p> <p>16 Q And were you ever in the military,</p> <p>17 Mr. Shockley?</p> <p>18 A No.</p> <p>19 Q Okay. And where were you born?</p> <p>20 A Laredo, Texas.</p> <p>21 Q And when did you move to California?</p> <p>22 A 1999.</p> <p>23 Q 1999? And you moved to San Francisco?</p> <p>24 A Yes.</p> <p>25 Q Since 1999 have you lived continuously in</p>

<p style="text-align: right;">Page 10</p> <p>1 San Francisco?</p> <p>2 A Yes.</p> <p>3 Q And you said September 27, '78, correct --</p> <p>4 A Yes.</p> <p>5 Q -- for your date of birth?</p> <p>6 Ever been convicted of a felony?</p> <p>7 A No.</p> <p>8 MR. GOINES: Zach, can we go off the record,</p> <p>9 please?</p> <p>10 MR. KWELLER: Sure.</p> <p>11 (Discussion off the record.)</p> <p>12 MR. GOINES: While we were off the record,</p> <p>13 Mr. Shockley gave me his Social Security information.</p> <p>14 Thank you for that.</p> <p>15 Q Are you currently taking any medications?</p> <p>16 A Baby aspirin.</p> <p>17 Q Did you say baby aspirin or maybe aspirin?</p> <p>18 A Baby.</p> <p>19 Q Baby aspirin. I knew it was one of those two.</p> <p>20 Every day?</p> <p>21 A Yes.</p> <p>22 Q Anything prescribed from a doctor?</p> <p>23 A No.</p> <p>24 Q And what do you take the baby aspirin for?</p> <p>25 A It's anticancer properties.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q Do you have private health insurance?</p> <p>2 A Yes.</p> <p>3 Q And who is that through?</p> <p>4 A My employer.</p> <p>5 Q Do you have insurance outside of your</p> <p>6 employer?</p> <p>7 A No.</p> <p>8 Q So I'm going to ask some questions about</p> <p>9 medical treatment specifically within the past five</p> <p>10 years. However, I'd like to focus on treatment not</p> <p>11 relating to this claim. Does that make sense?</p> <p>12 A Can you repeat that?</p> <p>13 Q No problem. So before we talk about your</p> <p>14 injury and medical treatment for this injury, part of my</p> <p>15 job is to find out your general medical history in the</p> <p>16 past. So as I said within -- strike that.</p> <p>17 When did you first receive treatment for your</p> <p>18 hands or your wrists at any time in your life?</p> <p>19 A (No audible response.)</p> <p>20 Q Best estimate.</p> <p>21 A Around 2009, over ten years ago, I had some</p> <p>22 pain in my right wrist. And I went in for one visit to</p> <p>23 a doctor, and he taught me how to do an exercise that</p> <p>24 would send warmth to my hands through some type of a</p> <p>25 focus. And I assume that would be considered treatment.</p>
<p style="text-align: right;">Page 11</p> <p>1 Q Not for pain?</p> <p>2 A No. Actually, I do take Advil, as needed, for</p> <p>3 my hands.</p> <p>4 Q For your hands?</p> <p>5 And when did you start feeling the need to</p> <p>6 take Advil because of pain in your hands, best estimate?</p> <p>7 A (No audible response.)</p> <p>8 Q More specifically, the injury we're discussing</p> <p>9 today is a cumulative trauma through February of 2019.</p> <p>10 Were you taking the baby aspirin for your hands before</p> <p>11 February of 2019? For pain in your hands.</p> <p>12 A No. Advil I've taken throughout -- on and off</p> <p>13 throughout -- or since probably about the beginning of</p> <p>14 the year.</p> <p>15 Q This year?</p> <p>16 A Yes, but I don't recall exactly how often.</p> <p>17 But I do take Advil before going to bed, if my hands</p> <p>18 hurt a lot.</p> <p>19 Q And is that every day?</p> <p>20 A No.</p> <p>21 Q Not every day?</p> <p>22 In an average week, how many times would you</p> <p>23 take that Advil at night?</p> <p>24 A If I'm having a flare-up, every day. If I'm</p> <p>25 not having a flare-up, then I try not to take it.</p>	<p style="text-align: right;">Page 13</p> <p>1 Q Meditative almost, type? Is that what you're</p> <p>2 saying?</p> <p>3 A Correct.</p> <p>4 Q Okay. And this was around 2009?</p> <p>5 A It was over ten years ago.</p> <p>6 Q And that was for your right wrist?</p> <p>7 A For my right wrist, yes.</p> <p>8 Q Do you recall the name of that doctor?</p> <p>9 A Yes.</p> <p>10 Q And who was that?</p> <p>11 A Dr. Markison.</p> <p>12 Q And do you recall where Dr. Markison was</p> <p>13 located?</p> <p>14 A On Van Ness Street in San Francisco.</p> <p>15 Q Okay. And was that -- from the best of your</p> <p>16 recollection, was that the first time that you ever</p> <p>17 received treatment for your right wrist?</p> <p>18 A Yes.</p> <p>19 Q And when I say wrist, I'm kind of encompassing</p> <p>20 the hand and fingers as well. So would the question be</p> <p>21 the same, Is that the first time you also received</p> <p>22 treatment for your hand or fingers on your right hand?</p> <p>23 A Was it the first time? Can you repeat that?</p> <p>24 Q Yes. So the current injury is for your</p> <p>25 bilateral upper extremity, which includes your hand and</p>

<p style="text-align: right;">Page 14</p> <p>1 your fingers and your right wrist. I'm trying to find 2 out whether you ever previously received treatment for 3 any of those body parts. 4 I know 2009, you said, was for your right 5 wrist, correct? 6 A Yes. It was at one visit for my right wrist, 7 and it -- there was no therapy after that. It consisted 8 solely of the one visit and the exercise that he taught 9 me at the office to do at home. 10 Q And from the best of your recollection, what 11 was your impetus for going to get that treatment in 12 2009? For example, was there a specific injury that 13 happened? 14 A My right wrist was bothering me. 15 Q It kind of developed over time? 16 A Yes. 17 Q And after you had that one treatment with this 18 Dr. Markinson (sic) -- 19 A Markison. 20 Q I have -- 21 A M-A-R-K-I-S-O-N. 22 MR. KWELLER: Is it Robert Markison? 23 THE WITNESS: Yes. 24 MR. GOINES: That's what I found as well, at 25 2000 Van Ness Avenue, No. 204.</p>	<p style="text-align: right;">Page 16</p> <p>1 one visit with Dr. Markison -- 2 MR. GOINES: Precisely. 3 MR. KWELLER: -- up until you received 4 treatment for this procedure -- 5 THE WITNESS: I haven't had any more treatment 6 at all. 7 BY MR. GOINES: 8 Q And would the same be for your right hand, no 9 treatment until this workers' compensation claim? 10 A I don't know how -- that question is different 11 from the last one? I don't know. 12 Q It's kind of the same in essence that -- so 13 when you went in 2009 to see Dr. Markison, it was only 14 for your right wrist, correct? 15 A Correct. 16 Q So no problems with your right hand at that 17 time? 18 A No. 19 Q And so now my questions are for your hand. 20 Did you have any issues with your right hand 21 before your current workers' compensation claim? 22 A No, no problems since the issue resolved. I 23 mean, the only -- I guess my issue is that I -- that I 24 was getting confused with the question. I haven't had 25 any issues since that visit with Dr. Markison.</p>
<p style="text-align: right;">Page 15</p> <p>1 Q After you had that one treatment with 2 Dr. Markison, did your right wrist resolve, meaning no 3 more pain? 4 A Pretty quickly. 5 MR. KWELLER: May I jump in, James? 6 MR. GOINES: Yes, please. 7 MR. KWELLER: The techniques that were taught 8 to you by Dr. Markison, meditative techniques to reduce 9 the stress in your wrist, how long did you perform those 10 activities after your initial visit with Dr. Markison? 11 THE WITNESS: Only a few times. The pain went 12 away on its own. I didn't feel that it -- that 13 particular exercise was all that much helpful, but it 14 didn't matter because it went away pretty fast. 15 MR. KWELLER: Okay. And when you say pretty 16 fast, was it two weeks, a month or more than a month? 17 THE WITNESS: Within a few weeks, it was gone. 18 BY MR. GOINES: 19 Q Did you miss any time from work because of 20 that right wrist back in '09? 21 A I don't recall. 22 Q Did you have any other treatment for your 23 right wrist? And, again, this is all before your 24 current injury. 25 MR. KWELLER: For the period of time from that</p>	<p style="text-align: right;">Page 17</p> <p>1 Q And just to be clear, when you went to see 2 Dr. Markison, I know it was for your right wrist. Did 3 you also go see him because you had right hand pain? 4 A As far as I can recall, it was my right 5 hand -- I mean, sorry -- my right wrist. But I 6 couldn't -- I just say hand area for the sake of 7 convenience. But, yes, it was the right wrist, as far 8 as I can recall. 9 Q Understood. 10 And before that -- strike that. 11 And, again, that was the first time you ever 12 had medical treatment for your right wrist, 2009, 13 Dr. Markison? 14 A (No audible response.) 15 Q I'll rephrase. From the best of your 16 recollection, the first time you ever got any medical 17 treatment for your right wrist was with Dr. Markison in 18 2009? 19 A Yes. 20 Q Got it. 21 Have you ever had any surgeries? 22 A In my body? 23 Q Yes. 24 A Yes. 25 Q Have you -- did you previously injure your</p>

<p style="text-align: right;">Page 18</p> <p>1 ankle?</p> <p>2 A Yes.</p> <p>3 Q And when was that?</p> <p>4 A In the '90s, 199- maybe '6 or '7. 1996 or '7.</p> <p>5 Q So you have had prior workers' compensation</p> <p>6 claims, correct?</p> <p>7 A Yes.</p> <p>8 Q Were any of them for overlapping body parts,</p> <p>9 meaning the same body parts that we're here for today?</p> <p>10 A No.</p> <p>11 Q The prior workers' compensation claims, it</p> <p>12 looks like they were all for your ankle or feet. Is</p> <p>13 that correct?</p> <p>14 A Yes.</p> <p>15 Q So insurance companies provide me with what's</p> <p>16 called an ISO report. That pretty much just pulls an</p> <p>17 individual's Social Security number, name, address to</p> <p>18 see if any matching claims come up, not just for work</p> <p>19 comp but also motor-vehicle accidents. I'll ask that</p> <p>20 question now:</p> <p>21 Have you ever been in a car accident, a motor-</p> <p>22 vehicle accident?</p> <p>23 A No.</p> <p>24 Q And with respect to prior workers'</p> <p>25 compensation claims, you have filed some; is that</p>	<p style="text-align: right;">Page 20</p> <p>1 Q And then you went back to work.</p> <p>2 A Yes.</p> <p>3 Q So you did not receive a lump sum of money?</p> <p>4 A No.</p> <p>5 Q Okay. And then the same question for the</p> <p>6 December 1998 Tulsa Ballet: Did you just receive</p> <p>7 medical treatment?</p> <p>8 A I don't even -- I don't remember receiving</p> <p>9 medical treatment.</p> <p>10 What was the question again?</p> <p>11 Q For the December 2nd, 1998 injury for your</p> <p>12 feet against Tulsa Ballet, I'm assuming you received</p> <p>13 some medical treatment. Is that correct?</p> <p>14 A I don't recall, but it's been a while.</p> <p>15 Q I understand. It is quite some time ago.</p> <p>16 That's why I can always ask for your best estimate only.</p> <p>17 From the best of your recollection, do you</p> <p>18 recall receiving any settlement money for that --</p> <p>19 A No.</p> <p>20 Q All right. And then I have a May 18th, 2001</p> <p>21 injury to your Achilles against the San Francisco Ballet</p> <p>22 Association. Does that sound familiar?</p> <p>23 A Yes.</p> <p>24 Q And kind of the same questions for that: Did</p> <p>25 you receive medical treatment?</p>
<p style="text-align: right;">Page 19</p> <p>1 correct?</p> <p>2 A Yes.</p> <p>3 Q I see a May 18th -- strike that.</p> <p>4 I see a March 25th, 1998 left foot injury</p> <p>5 against Boston Ballet. Does that sound familiar?</p> <p>6 A Correct.</p> <p>7 Q And then a December 2nd, 1998 injury to both</p> <p>8 your feet against the Tulsa Ballet Theater. Does that</p> <p>9 sound familiar?</p> <p>10 A Correct.</p> <p>11 Q I'll start one by one.</p> <p>12 The March 25th, 1998, did that claim resolve,</p> <p>13 meaning settle?</p> <p>14 A The March 1998 was the Boston Ballet?</p> <p>15 Q Boston Ballet, correct.</p> <p>16 A Did it resolve? What do you mean by resolve?</p> <p>17 Q Meaning did you reach a -- you had an</p> <p>18 attorney, correct?</p> <p>19 A No, I didn't.</p> <p>20 Q You dealt with an insurance company, though,</p> <p>21 correct? Zurich, I believe?</p> <p>22 A They did all the work for me. I was very</p> <p>23 young.</p> <p>24 Q You received medical treatment, I'm assuming?</p> <p>25 A That's it, and I did go back to work.</p>	<p style="text-align: right;">Page 21</p> <p>1 A Yes.</p> <p>2 Q Did you have an attorney?</p> <p>3 A No.</p> <p>4 Q Did you return back to work at full duties?</p> <p>5 A No.</p> <p>6 Q You never returned back to work with the</p> <p>7 San Francisco Ballet Association?</p> <p>8 A No. I had to retire from my classical -- from</p> <p>9 my ballet career.</p> <p>10 Q And was that because of your Achilles injury?</p> <p>11 A Correct.</p> <p>12 Q Do you recall from the May 18th, 2001 claim if</p> <p>13 you received a settlement?</p> <p>14 A I received some money, yes. I assume that</p> <p>15 that is the settlement.</p> <p>16 Q Yes. Do you recall how much?</p> <p>17 A 10,000.</p> <p>18 Q And did you have an attorney?</p> <p>19 A No.</p> <p>20 Q The last one I have is a September 24, 2001</p> <p>21 injury for your ankle --</p> <p>22 A Actually --</p> <p>23 Q Go ahead.</p> <p>24 A I got confused because I did -- I had two</p> <p>25 surgeries on my Achilles tendon. So that lump sum I</p>

<p style="text-align: right;">Page 22</p> <p>1 just mentioned would apply to the second -- I mean, the</p> <p>2 second surgery was for the same Achilles tendon, so</p> <p>3 I'm -- the sum would be for after the second.</p> <p>4 Q I see. Because the May 18th, 2001;</p> <p>5 September 24, 2001 are both against San Francisco Ballet</p> <p>6 for your ankle. And so you said you had two Achilles</p> <p>7 surgeries. Is that correct?</p> <p>8 A Yeah. Same injury, different...</p> <p>9 Q Right side or left side?</p> <p>10 A Right Achilles tendon.</p> <p>11 Q Right Achilles two times?</p> <p>12 A Two surgeries.</p> <p>13 Q Did the second -- strike that.</p> <p>14 Was the second surgery successful?</p> <p>15 A Partially.</p> <p>16 Q But, again, those prior claims were not for</p> <p>17 overlapping body parts, correct? Meaning the injury</p> <p>18 we're here for today is different than your prior</p> <p>19 injuries, correct?</p> <p>20 A Yeah.</p> <p>21 Q Any other surgeries, other than the Achilles?</p> <p>22 A Yes.</p> <p>23 Q What did you have, what kind of surgery?</p> <p>24 A The adenoids. Oh, I had a surgery, a</p> <p>25 sympathectomy.</p>	<p style="text-align: right;">Page 24</p> <p>1 Q For what?</p> <p>2 A One time my urine was red. Another I had a</p> <p>3 kidney stone. And another I had difficulty breathing.</p> <p>4 Q And these were all within the last five years?</p> <p>5 MR. KWELLER: Approximately.</p> <p>6 THE WITNESS: Approximately. Maybe one of</p> <p>7 them was further back, but roughly.</p> <p>8 BY MR. GOINES:</p> <p>9 Q What ER did you go to?</p> <p>10 A Saint Francis.</p> <p>11 Q That's in San Francisco?</p> <p>12 A Yes.</p> <p>13 Q Do you know what street that's on?</p> <p>14 A (No audible response.)</p> <p>15 Q Or which one did you go to?</p> <p>16 A It is on Hyde Street, I believe.</p> <p>17 Q Correct. Good memory. It's on 900 Hyde</p> <p>18 Street.</p> <p>19 Okay. Do you have any what would be</p> <p>20 considered chronic health conditions? Diabetes,</p> <p>21 hypertension, anything like that?</p> <p>22 A Not that I'm aware of, no.</p> <p>23 Q Have you ever treated at a Kaiser hospital?</p> <p>24 A I don't know.</p> <p>25 Q Do you recall if you have a Kaiser medical</p>
<p style="text-align: right;">Page 23</p> <p>1 Q When was that?</p> <p>2 A (No audible response.)</p> <p>3 Q Best estimate.</p> <p>4 A Maybe the year 2000, 2001, something like</p> <p>5 that.</p> <p>6 Q And where was that, best estimate?</p> <p>7 A Where?</p> <p>8 Q Yeah, the location.</p> <p>9 A It was -- the sympathetic nerve is --</p> <p>10 Q Sorry. The location of the actual surgery,</p> <p>11 what facility?</p> <p>12 A It was in San Francisco. I don't remember the</p> <p>13 hospital.</p> <p>14 Q Any other surgeries?</p> <p>15 A Oh, yes. I had a -- the Lasik surgery in my</p> <p>16 eyes. Oh, and I also had a bone spur on my big toe, and</p> <p>17 that was removed.</p> <p>18 Q And when was that, years?</p> <p>19 A That was before the Achilles tendon injury, so</p> <p>20 2000?</p> <p>21 Q Was that for your right foot?</p> <p>22 A Right foot.</p> <p>23 Q Okay. Have you been to the emergency room for</p> <p>24 any reason in the last five years?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 25</p> <p>1 record number?</p> <p>2 A No.</p> <p>3 Q Is that you don't know or you are positive</p> <p>4 you've never had -- I'll phrase it this way:</p> <p>5 Are you positive that you have never had a</p> <p>6 Kaiser medical record number?</p> <p>7 A I don't know.</p> <p>8 Q But from the best of your recollection, you do</p> <p>9 not recall treating at a Kaiser?</p> <p>10 A I don't know.</p> <p>11 Q The only reason we ask is, if someone's ever</p> <p>12 treated at Kaiser, to get medical records we need them</p> <p>13 to sign a release. It looks like you haven't, so you</p> <p>14 won't need to sign it. So that's not a problem, but</p> <p>15 that comes up in every depo.</p> <p>16 I was born at a Kaiser in Redwood City, and I</p> <p>17 would probably have to fill that out to get my own</p> <p>18 medical records. They are very specific.</p> <p>19 MR. KWELLER: Oh, no. They have a whole</p> <p>20 separate one if you want your own.</p> <p>21 MR. GOINES: Oh, do they?</p> <p>22 MR. KWELLER: Yeah. Because, when I left</p> <p>23 Kaiser, I needed them for my new personal doctor. It</p> <p>24 was a whole different process.</p> <p>25 MR. GOINES: When I went to law school in</p>

<p style="text-align: right;">Page 26</p> <p>1 Southern California, Kaiser Southern California is 2 different. They don't even recognize each other. 3 MR. KWELLER: Yep. When I worked for Gilson 4 Daub, I had Kaiser Southern California. Tried to use it 5 in Northern California, and they got mad at me. 6 MR. GOINES: Thankfully, neither here nor 7 there. 8 Q So turning, Mr. Shockley, to your employment 9 history. I'm going to ask some questions about prior 10 employment. We've gone over prior injuries, so we won't 11 need to go deeply into that. I'll ask some questions 12 about your employment history, then we'll take a 13 five-minute break because we're almost about halfway 14 through. 15 So with respect to employment, I usually like 16 to ask for about the past ten years or so. But we'll 17 start with -- it's usually best to start working 18 backwards. 19 So, for example, Biotelemetry, the current 20 employer, when did you start working with them? 21 A It was June 2018, as far as I remember. 22 Q I have June 25th, 2018. Does that sound 23 familiar? 24 A What was it again? What was that again? 25 Q June 25 of 2018 is when you started?</p>	<p style="text-align: right;">Page 28</p> <p>1 MR. KWELLER: What city was it in? 2 THE WITNESS: Oh, it was in San Francisco. 3 MR. KWELLER: Do you remember the neighborhood 4 that it was in? 5 THE WITNESS: I can't right now. 6 BY MR. GOINES: 7 Q How long did you work for them? 8 A I think I worked for almost two years. 9 Q Were you ever injured working for Pacific 10 Chess School? 11 A No. 12 Q And I assume your job duties included a use of 13 your hands because you are teaching chess. Would you 14 agree with that? 15 A Yes. 16 Q Roughly how many hours would you work on an 17 average day? 18 A I only worked once or twice a week for 19 maybe -- I think it was an hour and a half. So it was a 20 part-time job, very part time. 21 Q While you were working for Pacific Chess 22 School, did you ever feel any pain in your right wrist 23 or right hand? 24 A No. 25 Q And you said no injuries there?</p>
<p style="text-align: right;">Page 27</p> <p>1 A Sounds about right. 2 Q And it looks like you last worked February 15, 3 2019, correct? 4 A Yes. 5 Q Okay. Who did you work for immediately 6 before -- 7 And for the record, I'm going to refer to 8 Biotelemetry as "the employer" so it's a little simpler. 9 Who did you work for immediately before the 10 employer? 11 A By immediately you mean -- 12 Q So June 25th is when you started with the 13 employer. Who did you work for right before then? 14 A I don't know if I was working right before, 15 but you want to know the previous employer? 16 Q Yeah. So we're going to work backwards from 17 June '18. 18 A Okay. I was working for Pacific Chess School. 19 Q And where is that located? 20 A They have different locations. I would just 21 go to a particular school to teach. 22 Q To teach chess? 23 A Chess, yes. 24 MR. KWELLER: Which location did you go to? 25 THE WITNESS: I don't recall exactly.</p>	<p style="text-align: right;">Page 29</p> <p>1 A No. 2 Q What about who did you work for before Pacific 3 Chess School? 4 A I worked for Berkeley Chess School. 5 Q UC Berkeley or the City of Berkeley, or is it 6 just called Berkeley Chess School? 7 A It's called Berkeley Chess School. 8 Q And roughly when did you work for them? 9 A I think it was 2015 and '16, something like 10 that. 11 Q And, generally, what were your hours? 12 A (No audible response.) 13 Q More specifically, was it full time? 14 A No. 15 Q Part time? 16 A Part-time after school activities for the 17 children. So I would teach maybe four times a week, 18 sometimes even five. But the class would be one hour 19 and a half. But it depends. When I started, I was 20 teaching less. Then I started teaching more. 21 Q On an average week, how many hours do you 22 think you worked for Berkeley Chess School, best 23 estimate? 24 A You mean if I were to make an average out of 25 all the time that I was there?</p>

<p style="text-align: right;">Page 30</p> <p>1 Q Just on an average week, what would you say?</p> <p>2 A (No audible response.)</p> <p>3 Q If you can't do an average, maybe do an --</p> <p>4 A About you mean a week or a day?</p> <p>5 Q Week.</p> <p>6 A I would work maybe eight hours a week.</p> <p>7 Q So it was not every day?</p> <p>8 A I believe some weeks it was every day, but it</p> <p>9 was just one hour and a half or so in the evening.</p> <p>10 Q When you were working for Berkeley Chess</p> <p>11 School, did you ever feel pain in your right wrist or</p> <p>12 right hand?</p> <p>13 A No.</p> <p>14 Q Any injuries working with Berkeley Chess</p> <p>15 School?</p> <p>16 A No.</p> <p>17 Q And who did you work for before Berkeley Chess</p> <p>18 School? So around 2014 now.</p> <p>19 A I worked for San Francisco Youth Ballet.</p> <p>20 Q Generally -- or best estimate on the time</p> <p>21 period.</p> <p>22 A I think it was 2012, '13 and '14. Or maybe in</p> <p>23 2011 as well. I don't recall exactly.</p> <p>24 Q And is this -- that's fine.</p> <p>25 Is this a different employer than the</p>	<p style="text-align: right;">Page 32</p> <p>1 professional ballet dancer.</p> <p>2 Q So -- and then what about --</p> <p>3 So returning to the S.F. Youth Ballet from</p> <p>4 roughly 2011 to 2014, did you have any injuries while</p> <p>5 working with the S.F. Youth Ballet?</p> <p>6 A Can you repeat that? Sorry.</p> <p>7 Q Did you have any injuries working with S.F.</p> <p>8 Youth Ballet?</p> <p>9 A No.</p> <p>10 Q And was that full-time work?</p> <p>11 A No.</p> <p>12 Q On an average week, how many hours would you</p> <p>13 work?</p> <p>14 A (No audible response.)</p> <p>15 Q Best estimate.</p> <p>16 A Maybe -- okay. Give me some time here. Ten</p> <p>17 maybe.</p> <p>18 Q And were you teaching ballet --</p> <p>19 A Yes.</p> <p>20 Q -- to --</p> <p>21 I assume, because it's youth ballet, so you</p> <p>22 were teaching children ballet?</p> <p>23 A Yes.</p> <p>24 Q Since -- well, strike that.</p> <p>25 The last time you worked with the employer was</p>
<p style="text-align: right;">Page 31</p> <p>1 San Francisco Ballet Association?</p> <p>2 A Yes. This is a much smaller school.</p> <p>3 Q What was the name again?</p> <p>4 A San Francisco Youth Ballet.</p> <p>5 Q And this San Francisco Ballet Association, we</p> <p>6 know you worked for them in 2001 because you had the</p> <p>7 ankle injuries. I believe you said you retired after</p> <p>8 this September 2001. Is that correct?</p> <p>9 A As a professional ballet dancer, yes.</p> <p>10 Q As a professional, you retired around 2001?</p> <p>11 A No. I considered myself retired in 2003</p> <p>12 because I had a surgery -- the second surgery maybe in</p> <p>13 2002 or '03. And after that I didn't recover, so at</p> <p>14 that point I considered myself retired. But 2001 I</p> <p>15 still had hopes.</p> <p>16 Q Never want to lose hope.</p> <p>17 So when you said second surgery, that was your</p> <p>18 second Achilles surgery, right?</p> <p>19 A Correct.</p> <p>20 Q Okay. So after the second Achilles surgery,</p> <p>21 around 2003 is when you would consider yourself to have</p> <p>22 formally retired from professional ballet?</p> <p>23 A Well, I had the faint hope that my foot would</p> <p>24 somehow recover. But, yeah, that was when, I guess, I</p> <p>25 started realizing I would not be able to go back as a</p>	<p style="text-align: right;">Page 33</p> <p>1 February 15, 2019, correct?</p> <p>2 A With Biotelemetry?</p> <p>3 Q Correct.</p> <p>4 A February 15th, I believe, yes, that was the</p> <p>5 last day.</p> <p>6 Q You have not returned since then?</p> <p>7 A I haven't returned.</p> <p>8 Q So since then -- since February 15, 2019 --</p> <p>9 have you had any new injuries?</p> <p>10 A Any new injuries to any part of the body?</p> <p>11 Q To be specific, we're here for the bilateral</p> <p>12 upper extremity, so your right wrist, hand and forearm,</p> <p>13 correct?</p> <p>14 A Yes.</p> <p>15 Q So, specifically, have you had any new</p> <p>16 injuries to those body parts since February '19?</p> <p>17 A No.</p> <p>18 Q Did you have any injuries to any other body</p> <p>19 parts since February of '19?</p> <p>20 A My big toe hurt -- or rather started hurting a</p> <p>21 few weeks back, and that's all I can recall.</p> <p>22 Q From your best estimate, why did that pain</p> <p>23 start?</p> <p>24 A The big toe?</p> <p>25 Q Correct.</p>

<p style="text-align: right;">Page 34</p> <p>1 A I don't know. I was walking a lot, and I wore</p> <p>2 a toe spacer. But the doctor didn't know what the cause</p> <p>3 was. But it already feels better.</p> <p>4 Q The bone spur surgery that I believe you said</p> <p>5 was in 2000 --</p> <p>6 Is that correct, best estimate?</p> <p>7 A Yes.</p> <p>8 Q I believe that's what I wrote down.</p> <p>9 -- that was for your right foot, correct?</p> <p>10 A Correct.</p> <p>11 Q Was the bone spur on your big toe?</p> <p>12 A Yes.</p> <p>13 Q So the -- strike that.</p> <p>14 The previous bone spur surgery was for the</p> <p>15 right toe. That's the same toe that you said started</p> <p>16 hurting a couple of weeks ago?</p> <p>17 A Yes.</p> <p>18 Q Has that pain resolved?</p> <p>19 A To a substantial extent, yes.</p> <p>20 MR. GOINES: Okay. We'll take a five-,</p> <p>21 ten-minute break. We'll turn to your actual injury.</p> <p>22 I'd say we're at least halfway done, so we will not keep</p> <p>23 you here much longer.</p> <p>24 (Recess.)</p> <p>25 BY MR. GOINES:</p>	<p style="text-align: right;">Page 36</p> <p>1 calls are, yeah, a minority of the time.</p> <p>2 Q When you say processing EKGs, is that on a</p> <p>3 computer?</p> <p>4 A Yes.</p> <p>5 Q So you are using a keyboard?</p> <p>6 A Yes.</p> <p>7 Q And a mouse?</p> <p>8 A Yes.</p> <p>9 Q And, generally, how many hours would you work</p> <p>10 per week?</p> <p>11 A 40 hours a week.</p> <p>12 Q And during those 40 hours, what's your best</p> <p>13 estimate on how much of that time was spent using a</p> <p>14 computer or a mouse? Strike that. We'll do it more</p> <p>15 specific.</p> <p>16 So a normal eight-hour day, what's your best</p> <p>17 estimate on how long you would spend on the keyboard?</p> <p>18 A Out of, like, every day, how many hours?</p> <p>19 Q Yeah, just best estimate.</p> <p>20 A You mean mouse and keyboard?</p> <p>21 Q Combined, both of those together.</p> <p>22 A Let me see.</p> <p>23 Q How about this --</p> <p>24 A Seven hours.</p> <p>25 Q So more than 50 percent of your time?</p>
<p style="text-align: right;">Page 35</p> <p>1 Q Okay. Mr. Shockley, we left off talking about</p> <p>2 your prior injuries, prior employment. Now I'm going to</p> <p>3 turn to your employment with Biotelemetry, as well as</p> <p>4 the injury.</p> <p>5 We've already established you started</p> <p>6 June 25th, 2018, right around there. That sounds</p> <p>7 familiar?</p> <p>8 A You said 2018?</p> <p>9 Q June 25, 2018?</p> <p>10 A Yes.</p> <p>11 Q And just to be sure, it was the 15th, was your</p> <p>12 last day worked, of February of '19?</p> <p>13 A Yes.</p> <p>14 Q What was your job title with Biotelemetry?</p> <p>15 A I was a Tech 1.</p> <p>16 Q And briefly describe your job duties for me.</p> <p>17 A Basically editing, classifying EKGs that come</p> <p>18 in through mobile cardiac devices that people wear. And</p> <p>19 also there was some phone calls that I had to pick up,</p> <p>20 basically to tell them about a particular EKG. So they</p> <p>21 call, and you tell them what the EKG says.</p> <p>22 And then -- you know, but that only lasted --</p> <p>23 or rather, it was more at the beginning, first few</p> <p>24 months. And then it was more purely just processing the</p> <p>25 EKGs straight from the computer so -- but the phone</p>	<p style="text-align: right;">Page 37</p> <p>1 A Yes. I mean, it was all you do. Pretty much</p> <p>2 all you do.</p> <p>3 Q Almost the entire time?</p> <p>4 A Yeah. Yes.</p> <p>5 Q Okay. And so you developed pain over time,</p> <p>6 I'm assuming. Is that correct?</p> <p>7 A Yes.</p> <p>8 Q And where specifically was that pain?</p> <p>9 A You want me to go through it chronologically?</p> <p>10 MR. KWELLER: Yes, please.</p> <p>11 THE WITNESS: Okay. So, basically, my hand</p> <p>12 and my wrist started hurting.</p> <p>13 MR. KWELLER: Your left or your right?</p> <p>14 THE WITNESS: On my right hand started</p> <p>15 hurting. And, you know, also, you know, the forearm</p> <p>16 tendons. Well, or whatever -- whatever -- I don't want</p> <p>17 to -- I don't want -- I don't know exactly all the parts</p> <p>18 of the forearm.</p> <p>19 But, basically, forearm, wrist and hand</p> <p>20 started hurting on the right hand. And then I -- when</p> <p>21 that happened, I switched to a left mouse and I</p> <p>22 incorporated a pedal as well so that my right hand</p> <p>23 would -- to take off some of the load of my right hand.</p> <p>24 BY MR. GOINES:</p> <p>25 Q Sorry to interrupt, but did you say a pedal?</p>


<p style="text-align: right;">Page 38</p> <p>1 A Yeah, a pedal for clicking.</p> <p>2 Q I see what you mean. On the left-sided mouse?</p> <p>3 A No. So, basically, I started using a left</p> <p>4 mouse -- left vertical mouse as well as a pedal,</p> <p>5 basically to reduce the load of the clicking. So you</p> <p>6 move the mouse and you click so that you don't -- you</p> <p>7 know, you spread the load.</p> <p>8 Q You click with your foot --</p> <p>9 A Correct.</p> <p>10 Q -- instead of using your hand?</p> <p>11 MR. KWELLER: Kind of like using a bass drum?</p> <p>12 THE WITNESS: Well, yeah. You are basically</p> <p>13 spreading the load so that the hands have less load.</p> <p>14 MR. KWELLER: Okay. I think we're trying to</p> <p>15 understand what type of pedal it is.</p> <p>16 THE WITNESS: Oh, it is -- it's a pedal that</p> <p>17 you -- yeah, it has the same function as a click. So</p> <p>18 you press on the pedal, and that's a click.</p> <p>19 MR. KWELLER: Okay. Is it a light press, a</p> <p>20 heavy press? How sensitive is this pedal?</p> <p>21 THE WITNESS: It is a -- it's not too light.</p> <p>22 It's somewhere in the middle. And, definitely --</p> <p>23 actually, my foot started bothering me when I did too</p> <p>24 much of that. But that pain, fortunately, did go away.</p> <p>25 But, yeah, it was use of the left mouse and then adding</p>	<p style="text-align: right;">Page 40</p> <p>1 the right; and that's the reason why I offloaded to the</p> <p>2 left, is to rest the right. And then the left started</p> <p>3 bothering me.</p> <p>4 BY MR. GOINES:</p> <p>5 Q Developed right pain. Started -- and because</p> <p>6 of that, started using the left mouse. And then</p> <p>7 developed some pain in the left side as well?</p> <p>8 A Yeah.</p> <p>9 Q Okay. And are you right-handed?</p> <p>10 A Yes, mostly.</p> <p>11 Q Throughout the life of your medical treatment,</p> <p>12 was the right side worse?</p> <p>13 A (No audible response.)</p> <p>14 Q The pain. Was the pain more significant in</p> <p>15 the right side?</p> <p>16 A No, they both -- the day I stopped work, both</p> <p>17 hands were just as bad. But I do feel the right is</p> <p>18 worse overall.</p> <p>19 Q So when you stopped working, equal pain; but,</p> <p>20 generally, you would say the right side is a little bit</p> <p>21 worse?</p> <p>22 A Yes. It is easier to get a flare-up on the</p> <p>23 right. And also, because I use it for -- or I have a</p> <p>24 tendency to use it for more things because I'm mostly</p> <p>25 right-handed, then I tend to, you know -- you know,</p>
<p style="text-align: right;">Page 39</p> <p>1 of the pedal.</p> <p>2 And I forgot what the original question was.</p> <p>3 BY MR. GOINES:</p> <p>4 Q It's not a problem. In essence, you would</p> <p>5 move -- when you were using your left hand, the mouse,</p> <p>6 you would use your left hand to move the mouse but you</p> <p>7 would use the pedal for the clicking function?</p> <p>8 A Correct.</p> <p>9 Q Understood.</p> <p>10 And did your employer give you that, or did</p> <p>11 you --</p> <p>12 A Actually, let me correct that. I started with</p> <p>13 the left mouse without the pedal, and then I added the</p> <p>14 pedal. So, basically, offloaded from the right to the</p> <p>15 left. Started using the left, and then at some point I</p> <p>16 incorporated the pedal as well.</p> <p>17 Q And so were you feeling the -- I know you were</p> <p>18 feeling pain in your right wrist and right hand and</p> <p>19 right forearm. What about your left wrist and left hand</p> <p>20 and left forearm?</p> <p>21 A Yes, all of those, uh-huh.</p> <p>22 Q So it was both sides?</p> <p>23 A Yeah, yeah.</p> <p>24 MR. KWELLER: One after the other?</p> <p>25 THE WITNESS: One after the other, yes. So</p>	<p style="text-align: right;">Page 41</p> <p>1 after the -- I quit working, the recovery is -- you</p> <p>2 know, is something that the right hand takes longer to</p> <p>3 achieve sometimes. I don't know if I worded that</p> <p>4 correctly. Sorry.</p> <p>5 Q Okay. And you had treatment with Dr. O. Lang.</p> <p>6 Does that sound familiar, O. Lang?</p> <p>7 A Yes. Yeah.</p> <p>8 Q Patrick O. Lang, does that sound familiar?</p> <p>9 A Uh-huh.</p> <p>10 Q And it looks like at some point Dr. O. Lang</p> <p>11 said that you were permanent and stationary. Does that</p> <p>12 sound familiar?</p> <p>13 A Yes.</p> <p>14 Q But Dr. O. Lang gave you permanent work</p> <p>15 restrictions; is that correct?</p> <p>16 A Correct.</p> <p>17 Q Do you recall what those were?</p> <p>18 A Yeah, no computer use.</p> <p>19 MR. KWELLER: Do you recall if there were any</p> <p>20 other restrictions.</p> <p>21 THE WITNESS: Well, he told me to limit my</p> <p>22 hand activity, period. I mentioned that, you know,</p> <p>23 lifting objects or pretty much doing anything, including</p> <p>24 even holding my phone or, you know, typing on my phone,</p> <p>25 all that hurt my hand. So he told me to, you know,</p>

<p style="text-align: right;">Page 42</p> <p>1 reduce hand activity.</p> <p>2 And I did mention that to him, that all these</p> <p>3 things bothered me. But I read the report, and it --</p> <p>4 what it said was the computer restriction, work</p> <p>5 restriction.</p> <p>6 BY MR. GOINES:</p> <p>7 Q Yeah, I have the 5/28/19 report.</p> <p>8 "Work status: Modified duty with no use</p> <p>9 of the computer."</p> <p>10 So that was the only restriction, but the</p> <p>11 employer was not able to accommodate that. Correct?</p> <p>12 A Apparently, yes.</p> <p>13 Q Was that in essence because the bulk of your</p> <p>14 duties involved using a computer?</p> <p>15 A That was my -- that was my guess.</p> <p>16 Oh, my God.</p> <p>17 MR. KWELLER: Do you need a break?</p> <p>18 THE WITNESS: Let me just...</p> <p>19 MR. GOINES: I'll be done in less than five</p> <p>20 minutes.</p> <p>21 THE WITNESS: Let me just walk a little bit.</p> <p>22 BY MR. GOINES:</p> <p>23 Q As we said, you have not gone back to work</p> <p>24 with Biotelemetry, correct?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 44</p> <p>1 happened during the -- like, a bad flare-up. So most of</p> <p>2 the time it is from my elbow down to the fingers.</p> <p>3 Q And that's on the right side?</p> <p>4 A Well, that's on both sides. What do you mean?</p> <p>5 Q Well, again, like I said, so a lot of these</p> <p>6 body parts kind of bleed into each other. Sometimes</p> <p>7 people have just a finger injury and it has nothing to</p> <p>8 do with their hand. Sometimes people have an elbow</p> <p>9 injury and it includes the forearm, the wrist, the hand,</p> <p>10 the fingers. So that's part of what I'm here to discern</p> <p>11 today.</p> <p>12 So although I've already asked this, it's</p> <p>13 gotten a little convoluted. So we'll just back up and</p> <p>14 make sure we have everything.</p> <p>15 We know that on your right side we're talking</p> <p>16 about your elbow, your forearm, your wrist, your hand</p> <p>17 and your fingers. And you also said that sometimes the</p> <p>18 pain goes up to your right shoulder, correct?</p> <p>19 A Yes.</p> <p>20 Q But that's only during a flare-up?</p> <p>21 A That's correct.</p> <p>22 Q And that was one of the next questions I was</p> <p>23 going to ask: Generally, how often would you have what</p> <p>24 you consider to be a flare-up of pain?</p> <p>25 A Well, there is different intensity of</p>
<p style="text-align: right;">Page 43</p> <p>1 Q And you started receiving EDD benefits,</p> <p>2 disability benefits with the State?</p> <p>3 A Yes.</p> <p>4 Q Do you have any issues with your fingers on</p> <p>5 your right hand?</p> <p>6 A Yes.</p> <p>7 Q What about your fingers on your left hand?</p> <p>8 A Well, it's the -- it's the tendons in the hand</p> <p>9 as I move the fingers and as I utilize the fingers.</p> <p>10 Q So just so we can have everything clear</p> <p>11 because a lot of these body parts kind of bleed into</p> <p>12 each other, on the right side it's the right forearm,</p> <p>13 the right wrist, the right hand and right fingers,</p> <p>14 correct?</p> <p>15 A Correct.</p> <p>16 Q Anything else on the right side?</p> <p>17 A (No audible response.)</p> <p>18 Q Do you have any issues with your elbow?</p> <p>19 A Okay. So I mentioned to the doctor that, when</p> <p>20 I got a flare-up, the pain was radiating into my</p> <p>21 shoulder.</p> <p>22 Q All the way up?</p> <p>23 A It was almost touching my neck. And, yeah, he</p> <p>24 told me that that's normal because there's some nerve</p> <p>25 connection. But that flare-up into the shoulder only</p>	<p style="text-align: right;">Page 45</p> <p>1 flare-ups. If I go over a fairly low amount of hand</p> <p>2 activity, I will start getting more pain. And what I</p> <p>3 have been describing as a flare-up is, you know, pretty</p> <p>4 intense pain.</p> <p>5 Q Stop you there. So when you say pretty</p> <p>6 intense, normally the question I ask is, On a</p> <p>7 zero-to-ten scale -- zero, clearly, no pain. Ten being</p> <p>8 so excruciating that you instantaneously need an</p> <p>9 ambulance to be brought to an emergency room to have</p> <p>10 some sort of pain medication. So ten is the highest.</p> <p>11 A Uh-huh.</p> <p>12 Q When you have a flare-up, what would you say</p> <p>13 your pain is, zero to ten?</p> <p>14 A I think it's gotten all the way to seven or</p> <p>15 eight.</p> <p>16 Q And, again, how often, normally, would you</p> <p>17 have a flare-up? So say on a normal week-to-week</p> <p>18 schedule.</p> <p>19 A Well, okay. So I'm having a hard time</p> <p>20 understanding the degrees of intensity and what the</p> <p>21 question is as related to those. So that's the worst</p> <p>22 flare-up, the one that would be like a seven or an</p> <p>23 eight. And I have had only about two of those since I</p> <p>24 quit working.</p> <p>25 Q Okay.</p>

<p style="text-align: right;">Page 46</p> <p>1 A But the lesser flare-ups, I've had more of</p> <p>2 those. And those, they -- they are less painful than a</p> <p>3 seven or a eight, and they come about when they</p> <p>4 surpass -- or rather when my activity is greater than a</p> <p>5 certain amount every day.</p> <p>6 Q Do you recall if Dr. O. Lang on May 28th told</p> <p>7 you that you needed any medical treatment?</p> <p>8 A Can you repeat that? Sorry.</p> <p>9 Q Specifically, when Dr. O. Lang, May 28th,</p> <p>10 2019, said that you were permanent and stationary --</p> <p>11 A Okay.</p> <p>12 Q -- do you recall if he told you you needed any</p> <p>13 medical treatment?</p> <p>14 A He didn't ask me. He simply asked me if I</p> <p>15 thought that the current therapy was helping. And I</p> <p>16 told him not so much. So he basically seemed to be</p> <p>17 offering me to continue with that therapy, but I told</p> <p>18 him that it just wasn't helping that much.</p> <p>19 Q I have him saying here -- and this is, for</p> <p>20 what it's worth, Zach, on page 2 of the 5/28/19 report.</p> <p>21 "40-year-old man with bilateral upper</p> <p>22 extremity repetitive strain injury."</p> <p>23 Which we've talked about. Bilateral meaning</p> <p>24 both sides.</p> <p>25 "I had a lengthy discussion with the</p>	<p style="text-align: right;">Page 48</p> <p>1 MR. GOINES: I have no further questions,</p> <p>2 Counsel.</p> <p>3 THE WITNESS: Excuse me. The last question</p> <p>4 was if I recall him saying that I do not need any --</p> <p>5 okay.</p> <p>6 MR. GOINES: Correct.</p> <p>7 EXAMINATION</p> <p>8 BY MR. KWELLER:</p> <p>9 Q Okay. Mr. Shockley, do you have a computer at</p> <p>10 home?</p> <p>11 A Yes.</p> <p>12 Q And do you use that computer at home?</p> <p>13 A Yes.</p> <p>14 Q Have you purchased modifications from your</p> <p>15 computer -- strike that -- modifications for your</p> <p>16 computer at home so that you may use it within the</p> <p>17 restrictions provided by Dr. O. Lang?</p> <p>18 A Yes.</p> <p>19 Q What types of modifications have you purchased</p> <p>20 so that you may utilize your computer at home?</p> <p>21 A I bought a head pointer that works by moving</p> <p>22 your head and pointing with your head. Two of those,</p> <p>23 actually. I bought -- actually, yes, I bought another</p> <p>24 set of pedals, the ones that I had before and a new one</p> <p>25 as well. And then I also got Dragon speaking software.</p>
<p style="text-align: right;">Page 47</p> <p>1 patient today regarding his current status.</p> <p>2 Unfortunately, I have no additional treatment</p> <p>3 to offer him."</p> <p>4 He then went on to recommend no future medical</p> <p>5 but did recommend the modified use of no computer moving</p> <p>6 forward.</p> <p>7 So does that sound familiar, that the doctor</p> <p>8 recommend no future medical treatment?</p> <p>9 MR. KWELLER: Well, let me object to the</p> <p>10 question because there could be a discrepancy in what is</p> <p>11 written in the report and what was relayed to my client.</p> <p>12 MR. GOINES: Okay. So then we'll -- because I</p> <p>13 always avoid any ambiguities by actually presenting</p> <p>14 things, we'll enter Exhibit 1, will be the 5/28/2019.</p> <p>15 And we can speak after how you'd like me to get this</p> <p>16 exhibit to you.</p> <p>17 We'll enter the 5/28/2019 permanent and</p> <p>18 stationary report from Dr. O. Lang, at which time it</p> <p>19 specifically references Treatment, slash, Future</p> <p>20 Medical, none needed. So that clarifies what was</p> <p>21 actually written.</p> <p>22 Q From the best of your recollection, do you</p> <p>23 recall Dr. O. Lang telling you that you do not need any</p> <p>24 future medical treatment?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 49</p> <p>1 Q Okay. And the pedals you are referring to are</p> <p>2 for clicking?</p> <p>3 A Right, so I can use the computer without the</p> <p>4 use of my hands at all. But, since I'm using my neck,</p> <p>5 it is something that I don't do very -- for a very long</p> <p>6 time because my neck gets sore.</p> <p>7 Q Okay. So in addition to your bilateral hands,</p> <p>8 fingers, wrists, up to your shoulder during a flare-up,</p> <p>9 you have also developed some neck pain?</p> <p>10 A Right, correct, which basically forces me to</p> <p>11 limit the amount of time I spent on the computer using</p> <p>12 this. Also, I noticed, since I had my toe pain, that it</p> <p>13 was hurting to use the pedal as well. Anyway.</p> <p>14 Q And do you attribute your neck pain to having</p> <p>15 to modify the way that you use the computer?</p> <p>16 A Sure, as well as my phone.</p> <p>17 Q You have to modify the way you use your phone</p> <p>18 as well?</p> <p>19 A I have a mouth stick as well as an actual</p> <p>20 physical head pointer, a thing you strap to your head</p> <p>21 with a metal point and you move it like this.</p> <p>22 And, you know, the only extra thing I would</p> <p>23 say is that the voice control on the phone, if you use</p> <p>24 it for a while, your voice gets tired as well. But</p> <p>25 other than that, those are the modifications on the</p>

<p style="text-align: right;">Page 50</p> <p>1 phone as well.</p> <p>2 Q Okay. And have you shown any of these</p> <p>3 products to Dr. O. Lang throughout the course of your</p> <p>4 treatment?</p> <p>5 A Yes. I mentioned -- I actually showed him the</p> <p>6 head pointer, the physical head pointer. I told him</p> <p>7 about the other stuff that I'm using, except for the</p> <p>8 mouth stick, which is a relatively recent acquisition.</p> <p>9 So the mouse -- sorry. The head mouse as well as the</p> <p>10 pedals and the Dragon speaking software, those are</p> <p>11 things that I told the doctor about.</p> <p>12 Q Okay. Did he recommend that you use these</p> <p>13 products?</p> <p>14 A Yes. He encouraged me to minimize hand use.</p> <p>15 Q Okay. Did he tell you about the head pointer,</p> <p>16 or is that something that you researched on your own?</p> <p>17 A He didn't tell me about it, but I did mention</p> <p>18 to him that I couldn't use it very long because my neck</p> <p>19 would start bothering me.</p> <p>20 Q Okay. So you did tell Dr. O. Lang that you</p> <p>21 were having some pain in your neck?</p> <p>22 A Yes.</p> <p>23 Q Okay. And approximately when did you first</p> <p>24 experience pain in your neck as a result of utilizing --</p> <p>25 A Well, the very first day I got it and I</p>	<p style="text-align: right;">Page 52</p> <p>1 A I believe so, yes.</p> <p>2 Q Okay. And how long after you purchased the</p> <p>3 head pointer for the computer did you tell Dr. O. Lang</p> <p>4 that it was bothering your neck?</p> <p>5 A As -- it was as soon as it came up in the</p> <p>6 conversation. I believe it was in the very -- no. You</p> <p>7 know, I'm actually not exactly sure if it was in the</p> <p>8 second meeting. But anyway, it was in one of our</p> <p>9 meetings I told him about it. I just don't recall</p> <p>10 exactly when.</p> <p>11 Q And the treatment that you received, did you</p> <p>12 go initially to Dr. O. Lang or did you see somebody</p> <p>13 before that?</p> <p>14 A Did I try to see anybody?</p> <p>15 Q Under the workers' compensation claim.</p> <p>16 A Yes.</p> <p>17 Q Did you see anyone before starting to treat</p> <p>18 with Dr. O. Lang?</p> <p>19 A No.</p> <p>20 Q Okay. So Dr. O. Lang is the only person that</p> <p>21 you treated with?</p> <p>22 A Yes.</p> <p>23 Q Okay. Did Dr. O. Lang perform any diagnostic</p> <p>24 studies, such as an MRI of any body part?</p> <p>25 A No.</p>
<p style="text-align: right;">Page 51</p> <p>1 started using it, I started feeling, you know, the pain</p> <p>2 in the neck because it's just not a very natural thing.</p> <p>3 You also have to coordinate the feet with the head.</p> <p>4 So, for instance, there's a pedal out of the</p> <p>5 three pedals where -- basically because, when you are</p> <p>6 moving it, it's not as precise as the hand. So it's</p> <p>7 moving kind of fast. And so to slow down the pointer or</p> <p>8 the arrow, you press the right pedal to slow down the --</p> <p>9 you know, the arrow. So there's -- you have to be</p> <p>10 coordinated.</p> <p>11 Q And approximately when did you purchase the</p> <p>12 head pointer?</p> <p>13 A It was several months ago. I can't remember</p> <p>14 exactly when I bought it, but it has been, you know,</p> <p>15 quite a few months. But it was after the -- I believe</p> <p>16 it was after my last day of work, but I'd have to</p> <p>17 doublecheck exactly when I bought that, yeah.</p> <p>18 Q Okay.</p> <p>19 A But, yeah, are you talking the head pointer</p> <p>20 for the computer or for the phone or both?</p> <p>21 Q The head pointer for the computer.</p> <p>22 A It was several months ago. I don't recall</p> <p>23 exactly the day.</p> <p>24 Q Okay. But sometime shortly after you stopped</p> <p>25 working for your employer?</p>	<p style="text-align: right;">Page 53</p> <p>1 Q Did he perform nerve or muscle tests on either</p> <p>2 arm?</p> <p>3 A No.</p> <p>4 Q What medical treatment did you receive from</p> <p>5 Dr. O. Lang?</p> <p>6 A The therapy.</p> <p>7 Q How many visits of therapy did you receive?</p> <p>8 And I presume physical therapy?</p> <p>9 A Yes, physical therapy.</p> <p>10 How many? Maybe 20. I don't recall exactly</p> <p>11 how many, but maybe around that. Or maybe more. Maybe</p> <p>12 twenty-something. I'm not exactly sure the number of</p> <p>13 them.</p> <p>14 Q Okay. Did he ever discuss with you obtaining</p> <p>15 any diagnostic studies?</p> <p>16 A Yes. He told me that it is hard to see the</p> <p>17 injury through some of the more standard means, such as</p> <p>18 x-ray.</p> <p>19 Q What about MRIs or nerve and muscle testings,</p> <p>20 did he discuss those with you?</p> <p>21 A I believe he mentioned that, through any of</p> <p>22 the means currently available, that it was not so easy</p> <p>23 to see that. But he did mention that, as part of what</p> <p>24 could be going on, that I could have tendonitis or even</p> <p>25 some other things that could be seen. But that he told</p>

<p style="text-align: right;">Page 54</p> <p>1 me that RSI, some of the aspects of that are not easily 2 discernable with some of the standard means of 3 radiography. 4 Q Okay. But he did not try to do a rule-out 5 diagnosis by way of diagnostic studies, to see if it 6 could be something else? 7 A A rule-out? Can you explain that? 8 Q So a rule-out diagnosis is he has a general 9 idea of what he believes is the issue. But he hasn't 10 confirmed by way of imaging to see if it is actually 11 that or something else that could be seen on imaging? 12 A That is correct, he didn't do that. 13 MR. KWELLER: Okay. I don't have any further 14 questions. 15 MR. GOINES: So I have follow-up questions. 16 And I'm restricted to only talk about the questions that 17 your attorney had talked about, which I can easily do. 18 FURTHER EXAMINATION 19 BY MR. GOINES: 20 Q Firstly, so is it your testimony that you told 21 Dr. O. Lang that you had neck pain? 22 A Yes. 23 MR. GOINES: So the only way I'm going to be 24 able to do this is I'm also going to have to enter some 25 other exhibits, Counsel, because, from my review of the</p>	<p style="text-align: right;">Page 56</p> <p>1 Wrist and digital range of motion, normal bilaterally, 2 meaning he did test your range of motion. Sensation is 3 grossly intact distally bilaterally. 4 I will enter that exhibit. 5 MR. KWELLER: Okay. I object to the 6 commentary on the report -- 7 MR. GOINES: That's fine. 8 MR. KWELLER: -- because testing could be 9 performed without physical touching of the applicant. 10 MR. GOINES: I would disagree because 11 Dr. O. Lang very specifically put here that there was an 12 examination of the bilateral upper extremities. And, in 13 my opinion, I don't know how he would be able to come up 14 with these determinations without making any sort of 15 physical contact. 16 Q But, again, it is your testimony that you 17 reported neck pain to Dr. O. Lang, correct? 18 A I mentioned it, that the head pointer was 19 something I couldn't use for too long because it gave me 20 head pain -- rather, neck pain. 21 Q Do you recall when that was, from the best of 22 your estimate? 23 A (No audible response.) 24 Q And to jump in there, you treated with him 25 March 1 through May 28. So we're only talking about a</p>
<p style="text-align: right;">Page 55</p> <p>1 medical records, there's never been any indication 2 whatsoever of any neck pain. 3 So aside from the 5/28/19 report, I'll have to 4 enter Exhibit 2, which is going to be the March 1, 2019 5 initial report. 6 Q Mr. Shockley, is it your testimony that, from 7 the best of your recollection, Dr. O. Lang never did any 8 sort of tests on either one of your arms? 9 MR. KWELLER: Objection. Can you clarify 10 tests? Because it has several meanings within the 11 context of medical testing. 12 BY MR. GOINES: 13 Q During your examinations with and your 14 treatments with Dr. O. Lang, did he physically examine 15 either of your arms? Meaning, did he touch them and 16 feel them and ask questions? 17 A Not once did he touch my hands. 18 Q Okay. So that's specifically why I'll enter 19 the March 1, 2019 initial exhibit. I won't read 20 everything, but we have a physical exam here clearly 21 stating: 22 "Examination of the bilateral 23 extremities reveals no deformity." 24 Tinel's sign, which is technically a 25 diagnostic, is negative. Finkelstein's test, negative.</p>	<p style="text-align: right;">Page 57</p> <p>1 three-month time period. 2 Do you recall when, for the best of your 3 estimate, the first time you reported neck pain? 4 A I only mentioned it once. I don't know 5 exactly in which of the meetings it was. 6 MR. GOINES: Okay. All that will eventually 7 get to the med-legal, so I'm not going to enter every 8 exhibit. I will just enter the initial one on March 1 9 as well as the May 28th. 10 Q My last question is, I know your attorney was 11 asking some questions about some modifications for 12 computer use. Those modifications that you were making, 13 that was while you were still working with Biotelemetry, 14 correct? 15 A Which modifications? 16 Q So, for example, the head pointer, did you buy 17 that when you were working or was this afterward? 18 A To the best of my recollection, that was 19 afterwards. 20 Q After February 15, 2019? 21 A Yes, the head pointer. But the Dragon 22 speaking software, I already had that, as well as the 23 pedals. 24 Q And that was what Dr. O. Lang was recommending 25 you do, correct, the Dragon and the pedal to help</p>

<p style="text-align: right;">Page 58</p> <p>1 alleviate use of the arms?</p> <p>2 A He mentioned the Dragon. I -- yeah, and I</p> <p>3 mentioned what I had already been using, which was the</p> <p>4 pedal and the left mouse. But both of my hands were in</p> <p>5 pain, so I needed to find something to substitute for my</p> <p>6 hands. And so I got the head pointer.</p> <p>7 Q Understood.</p> <p>8 And my last question is, Do you recall the</p> <p>9 May 28, 2019 permanent and stationary report where</p> <p>10 Dr. O. Lang gave you permanent work restrictions? Does</p> <p>11 that sound familiar?</p> <p>12 A Yes, I recall that.</p> <p>13 Q Do you recall what those work restrictions</p> <p>14 were?</p> <p>15 A You mean what he wrote on the --</p> <p>16 Q Correct.</p> <p>17 A He said no computer use, I believe.</p> <p>18 Q No use of the computer; that's correct. And</p> <p>19 so you were aware, when he gave you that report, that</p> <p>20 those were his recommendations for you moving forward,</p> <p>21 correct?</p> <p>22 A Yes.</p> <p>23 Q Understood.</p> <p>24 MR. GOINES: Okay. Counsel?</p> <p>25 MR. KWELLER: I don't have any further</p>	<p style="text-align: right;">Page 60</p> <p>1 I, the undersigned, a Certified Shorthand</p> <p>2 Reporter of the State of California, do hereby certify:</p> <p>3 That the foregoing proceedings were taken</p> <p>4 before me at the time and place herein set forth; that</p> <p>5 any witnesses in the foregoing proceedings, prior to</p> <p>6 testifying, were administered an oath; that a record of</p> <p>7 the proceedings was made by me using machine shorthand</p> <p>8 which was thereafter transcribed under my direction;</p> <p>9 that the foregoing transcript is a true record of the</p> <p>10 testimony given.</p> <p>11 Further, that if the foregoing pertains to the</p> <p>12 original transcript of a deposition in a Federal Case,</p> <p>13 before completion of the proceedings, review of the</p> <p>14 transcript [] was [] was not requested.</p> <p>15 I further certify I am neither financially</p> <p>16 interested in the action nor a relative or employee of</p> <p>17 any attorney or party to this action.</p> <p>18 IN WITNESS WHEREOF, I have this date subscribe</p> <p>19 my name.</p> <p>20</p> <p>21 Dated: October 23, 2019</p> <p>22</p> <p>23  CLAUDIA A. BETTUCCHI</p> <p>24 CSR NO: 12214</p> <p>25</p>
<p style="text-align: right;">Page 59</p> <p>1 questions.</p> <p>2 MR. GOINES: Terrific. Thank you.</p> <p>3 And, actually, let me just put this on the</p> <p>4 record here, that I did get a response from Mr. Castro,</p> <p>5 the adjustor. Here is the authorization -- and I will</p> <p>6 forward it to you, Zach -- dated, interestingly,</p> <p>7 October 13th. Maybe he's prospectively -- but</p> <p>8 regardless. Evaluation and treatment with Dr. Jamasbi</p> <p>9 for Mr. Shockley. I will forward this to you, Zach.</p> <p>10 MR. KWELLER: Perfect.</p> <p>11 MR. GOINES: So just so you know that while</p> <p>12 we're on the record too, you have this authorization</p> <p>13 now. Thank you, Mr. Shockley.</p> <p>14 THE WITNESS: That's it?</p> <p>15 MR. GOINES: That is it.</p> <p>16 MR. KWELLER: That's it.</p> <p>17 THE WITNESS: Okay. Thank you.</p> <p>18 (Exhibits 1 and 2 were marked for</p> <p>19 identification.)</p> <p>20</p> <p>21 (TIME NOTED: 11:54 a.m.)</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 61</p> <p>1 Zachary Kweiler, Esq.</p> <p>2 zachary.kweiler@farberandco.com</p> <p>3 October 23, 2019</p> <p>4 RE: Shockley v. Biotelemetry, Inc. DbA Cardionet, Et Al</p> <p>5 10/10/2019, Jonathan Shockley (#3503088)</p> <p>6 The above-referenced transcript is available for</p> <p>7 review.</p> <p>8 Within the applicable timeframe, the witness should</p> <p>9 read the testimony to verify its accuracy. If there are</p> <p>10 any changes, the witness should note those with the</p> <p>11 reason, on the attached Errata Sheet.</p> <p>12 The witness should sign the Acknowledgment of</p> <p>13 Deponent and Errata and return to the deposing attorney.</p> <p>14 Copies should be sent to all counsel, and to Veritext at</p> <p>15 erratas-cs@veritext.com</p> <p>16</p> <p>17 Return completed errata within 30 days from</p> <p>18 receipt of testimony.</p> <p>19 If the witness fails to do so within the time</p> <p>20 allotted, the transcript may be used as if signed.</p> <p>21</p> <p>22 Yours,</p> <p>23 Veritext Legal Solutions</p> <p>24</p> <p>25</p>

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<div style="text-align: right;">Page 63</div> <div> 1 Shockley, Jonathan v. Biotelemetry, Inc. Dba Cardionet, Et Al 2 Jonathan Shockley (#3503088) 3 ACKNOWLEDGEMENT OF DEPONENT 4 I, Jonathan Shockley, do hereby declare that I 5 have read the foregoing transcript, I have made any 6 corrections, additions, or changes I deemed necessary as 7 noted above to be appended hereto, and that the same is 8 a true, correct and complete transcript of the testimony 9 given by me. 10 _____ 11 _____ 12 Jonathan Shockley Date 13 *If notary is required 14 SUBSCRIBED AND SWORN TO BEFORE ME THIS 15 _____ DAY OF _____, 20____. 16 _____ 17 _____ 18 _____ 19 NOTARY PUBLIC 20 21 22 23 24 25 </div>	

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California Code of Civil Procedure

Article 5. Transcript or Recording

Section 2025.520

(a) If the deposition testimony is stenographically recorded, the deposition officer shall send written notice to the deponent and to all parties attending the deposition when the Original transcript of the testimony for each session of the deposition is available for reading, correcting, and signing, unless the deponent and the attending parties agree on the record that the reading, correcting, and signing of the transcript of the testimony will be waived or that the reading, correcting, and signing of a transcript of the testimony will take place after the entire deposition has been concluded or at some other specific time.

(b) For 30 days following each notice under subdivision (a), unless the attending parties and the deponent agree on the record or otherwise in writing to a longer or shorter time period, the deponent may change the form or the substance of the answer to a question, and may either approve the transcript of the deposition by signing it, or

refuse to approve the transcript by not signing it.

(c) Alternatively, within this same period, the deponent may change the form or the substance of the answer to any question and may approve or refuse to approve the transcript by means of a letter to the deposition officer signed by the deponent which is mailed by certified or registered mail with return receipt requested. A copy of that letter shall be sent by first-class mail to all parties attending the deposition.

(d) For good cause shown, the court may shorten the 30-day period for making changes, approving, or refusing to approve the transcript.

(e) The deposition officer shall indicate on the original of the transcript, if the deponent has not already done so at the office of the deposition officer, any action taken by the deponent and indicate on the original of the transcript, the deponent's approval of, or failure or refusal to approve, the transcript. The deposition officer shall also notify in writing the parties attending the deposition of any changes which the deponent timely made in person.

(f) If the deponent fails or refuses to approve the transcript within the allotted period, the

deposition shall be given the same effect as though it had been approved, subject to any changes timely made by the deponent.

(g) Notwithstanding subdivision (f), on a seasonable motion to suppress the deposition, accompanied by a meet and confer declaration under Section 2016.040, the court may determine that the reasons given for the failure or refusal to approve the transcript require rejection of the deposition in whole or in part.

(h) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition under this section, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

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